

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

CASE NO. 22-CIV-61189-RAR

DENISE PAYNE,

Plaintiff,

v.

**RETAIL WESTON PARTNERS, LLC,
and FLANIGAN'S ENTERPRISES, INC.,**

Defendants.

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ORDER DIRECTING CLERK TO ENTER DEFAULT

THIS CAUSE comes before the Court upon *sua sponte* review of the record. Plaintiff filed her Complaint [ECF No. 1] on June 22, 2022. Defendants were served with process on June 24, 2022 and June 28, 2022. *See* Returns of Service [ECF Nos. 5, 6]. Defendants' response or answer to Plaintiff's Complaint was due on or before July 19, 2022. On July 26, 2022, the Court entered an Order to Show Cause [ECF No. 8] requiring that Defendants submit a single combined response or separate answers to Plaintiff's Complaint on or before July 29, 2022, and stating that failure to do so would result in the entry of default against Defendants without further notice.

To date, there is no indication that Defendants have answered or otherwise responded to the summons and Complaint, nor have Defendants requested an extension of time to do so. Therefore, it is hereby

ORDERED AND ADJUDGED as follows:

1. The Clerk of Court shall file an Entry of Default against Defendants pursuant to Rule 55(a) of the Federal Rules of Civil Procedure.

2. **Within ten (10) days** of the Clerk's Entry of Default, Plaintiff shall file a *Motion for Default Final Judgment* where:

- a. There are no allegations of joint and several liability, and no possibility of inconsistent liability between Defendants;¹ **or**
- b. There are allegations of joint and several liability **and all** named Defendants have defaulted.²

The *Motion* must include affidavits of any sum certain due by Defendants, and any other supporting documentation necessary to determine Plaintiff's measure of damages. The *Motion* shall also be accompanied by (1) the necessary affidavit under the Servicemembers Civil Relief Act, 50 U.S.C. app. section 521(b), if applicable; (2) a memorandum of law supporting entitlement to final judgment; (3) a proposed order; and (4) a proposed final judgment. Pursuant to the CM/ECF Administrative Procedures, the proposed orders **shall be submitted to the Court by e-mail in Word format** at ruiz@flsd.uscourts.gov. **The email subject line must include the case number as follows: XX-CV-XXXX-RAR.** Plaintiff shall send a copy of the *Motion* to Defendants' counsel or to Defendants if they do not have counsel. In the certificate of service, Plaintiff shall indicate that notice was sent and the addresses where notice was sent.

If Defendants fail to move to set aside the Clerk's Default or respond to the *Motion* within the time permitted by the Rules, default final judgment may be entered, which means that Plaintiff may be able to take Defendants' property or money, and/or obtain other relief against Defendants.

¹ Plaintiff must state in the *Motion for Default Final Judgment* that there are no allegations of joint and several liability, and set forth the basis why there is no possibility of inconsistent liability.

² Plaintiff must state in the *Motion for Default Final Judgment* that there are allegations of joint and several liability.

3. Plaintiff's failure to file either a *Motion for Default Final Judgment* or a *Notice of Joint Liability* within the specified time will result in a **dismissal without prejudice** and without further notice.
4. The Clerk is directed to **CLOSE** this case for administrative purposes only.

DONE AND ORDERED in Fort Lauderdale, Florida this 1st day of August, 2022.

A handwritten signature in black ink, appearing to read 'Rodolfo A. Ruiz II', written over a horizontal line.

RODOLFO A. RUIZ II
UNITED STATES DISTRICT JUDGE